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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/800,415      | 03/12/2004  | David Orr            | DAV-101/CIP         | 7053             |

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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.  
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EXAMINER

QUINN, COLLEEN M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                   |  |
|------------------------------|--------------------------------------|-----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/800,415 | <b>Applicant(s)</b><br>ORR, DAVID |  |
|                              | <b>Examiner</b><br>Colleen M. Quinn  | <b>Art Unit</b><br>3634           |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This final Office action is mailed in response to Applicant's response filed June 5<sup>th</sup>, 2006, wherein Applicant amended claims 1-4 and 6 and added new claims 7-9.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 remain rejected under 35 U.S.C. 102(b) as being anticipated by Licata (US 3,735,020). Licata discloses a blank panel (90) having three face plates separated by break-off grooves (100 and 101). Figure 16 shows the face plates (90) where the side surfaces are oriented along the break-off grooves as the top and bottom sides. Applicant's broad recitation of a contact surface is considered to be met by Licata '020, as the top and bottom have surfaces capable of functioning as contact surfaces to the same degree and in the same manner as the claimed recitation noted. The side surfaces (top and bottom) are separated by a series of reinforcement ribs (91). Formed between any two ribs (91) along the contact surfaces are channels. The recitation "for exchangably and slidably holding a correspondingly shaped mating structure" in lines 9-11 of claim 1, is a functional recitation. Therefore the channels formed between the ribs are capable of receiving of correspondingly shaped mating structure.

With respect to claim 2, the channels of Licata formed along the contact faces and between the ribs further comprise positioning indicators (94,95), which would function to indicate a predetermined position of a correspondingly shaped mating structure.

With respect to claims 3 and 4, the break-off grooves (100,101) comprise a thin film bridge connecting the adjacent face plates. As shown in figure 17, the break-off groove comprises angled levering surfaces for inducing a force onto the thin film bridge.

Claims 1 and 5 remain rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt et al. (US 6,278,606). Schmitt et al. disclose a blank panel having two face plates (36,34) separated by break-off grooves (34e). The break-off groove (34e) is understood to define a line where the face plates (34,36) are separable. Figure 4 shows the face plates (34,36) where the side surfaces are oriented along the break-off grooves as the left and right sides. Applicant's broad recitation of a contact surface is considered to be met by Schmitt et al., as the left and right sides have surfaces capable of functioning as contact surfaces to the same degree and in the same manner as the claimed recitation noted. At least one of the face plates (36) has side surfaces separated by a series of reinforcement ribs (36c,36d). At least one of the face plates (36) has channels (34g,34f). The channels (34g,34f) are shaped for exchangeably and slidably receiving a correspondingly shaped mating structure (34c,34d).

With respect to claim 5, As best understood in view of the section 112 2<sup>nd</sup> paragraph rejection advanced above, the mating structures (34c, 34d) are a unitary part with a fastener (34a). The fastener (34a) comprises two laterally resilient protrusions.

The fasteners are seen to be symmetrical with respect to an attachment axis perpendicular to the contact surface.

***Allowable Subject Matter***

Claim 6 was previously indicated to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action *and to include all of the limitations of the base claim and intervening claims*. However, no action was taken to overcome the base claim and intervening claim, so claim 6 remains rejected.

***Response to Amendments & Arguments***

Applicant's amendments do not overcome the prior art rejections. Claims 1-3 introduced new matter that was not previously presented in either the original claims or the specification.

Regarding claim 1, applicant amended the channel to be "T-shaped," which was not previously mentioned in the specification or claims.

Regarding claim 2, the applicant introduced the position indicators to be "parallel to a plane of the at least one of said contact faces," which was not previously mentioned in the specification or claims.

Regarding claim 3, the applicant introduced the bridge to have a thickness that is "less than that of said at least two face plates," which was not previously mentioned in either the original claims or the specification.

Regarding claim 4, the amendment is not sufficient to overcome the prior art. Licata (3,735,020) clearly depicts in Figure 17, the break-off groove comprising a

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levering surface oppositely (Webster's II New Riverside Dictionary: *Opposite*: 1. Across from or facing 2. In a complimentary dramatic role) positioned said bridge.

Regarding claim 5, no action was taken amend the claim in an attempt to overcome the prior art. Claim 5 remains rejected as previously argued in both the prior and above Office action. Applicant argues that the channels of Schmitt et al. are not slidable, however the structure of the channels of Schmitt et al is clearly depicted as a mating structure in Figures 3 and 4 (Schmitt) such that 34d and 34c slide into 34g and 34f respectively.

Newly submitted claims 7-9 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original claims did not include a rack, or rack having mounting bars, T-shaped channels or V-shaped grooves.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7-9 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

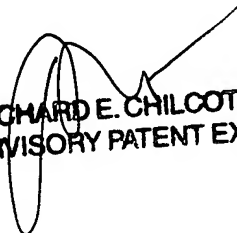
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ  
08/14/06

  
RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER